

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:14-CV-00714-RJC-DSC

SIRONA DENTAL, INC.,

Plaintiff,

v.

JOHN SMITHSON and MARIA SMITHSON,

Defendants/Third-Party
Plaintiffs,

v.

MICHAEL S. AUGINS,

Third-Party Defendant.

**ORDER GRANTING PLAINTIFFS' REQUESTS
FOR DECLARATORY JUDGMENT AND PERMANENT INJUNCTION**

THIS MATTER is before the Court on Plaintiff Sirona Dental, Inc.'s ("Sirona") request for declaratory judgment as to the ownership of the 3DSummit.com, Sirona3DDrive.com,¹ and GetYour3DOn.com domains ("Sirona Websites") and injunctive relief permanently enjoining Defendant John Smithson from further controlling, accessing, or altering the Sirona Websites and publicly disclosing Sirona's confidential and proprietary information.

Sirona filed this action against Defendants John Smithson and Maria Smithson (collectively, "Defendants") on December 22, 2014. (Doc. No. 1.) Sirona thereafter filed an Amended Complaint on March 16, 2015 seeking various forms of relief, including:

¹ The Sirona3DDrive.com domain is currently registered and owned by a third party that is not a party to this lawsuit. Accordingly, this domain is not subject to the declaratory and injunctive relief set forth herein.

- (i) a judgment pursuant to 28 U.S.C. § 2201 declaring that the Sirona Websites rightfully belong to Sirona and that Defendant John Smithson has no right to own, control, or access these domain accounts, (Doc. No. 22, Count XI, ¶ 167); and
- (ii) injunctive relief² requiring Defendant John Smithson to relinquish to Sirona his control over the Sirona Websites and prohibiting him from further controlling, accessing, or altering the Sirona Websites (*Id.*, Count XV, ¶ 186), and prohibiting Defendant John Smithson from publicly disclosing Sirona's confidential and proprietary information (*Id.*, Count XVI, ¶ 191).

The parties conducted discovery, after which they filed cross-motions for summary judgment (Doc. Nos. 70, 73, 76) and related responses and replies. The Court heard oral arguments on the parties' respective motions for summary judgment on September 5, 2017 and thereafter took the matter under advisement. The Court entered an Order on March 30, 2018, which found, in relevant part, that Sirona is entitled to summary judgment as a matter of law on its declaratory judgment claim because Defendant John Smithson asserts no ownership interest in the Sirona Website Domains. (Doc. No. 88 at 6.) *See* 28 U.S.C. § 2201 ("In a case of actual controversy within its jurisdiction . . . any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.") The Court further found as a matter of law that Sirona is entitled to a permanent injunction prohibiting Defendant John Smithson from further controlling, accessing, or altering the Sirona Websites and publicly disclosing Sirona's confidential and proprietary information. (Doc. No. 88 at 25-26.) In

² Sirona previously filed a motion for preliminary injunction requesting the Court to order John Smithson to relinquish to Sirona his control over the Sirona Websites, not further control, access, or alter the Sirona Websites, and not publicly disclose Sirona's confidential and proprietary information. (Doc. No. 3.) The Court granted the requested relief on January 20, 2015. (Doc No. 17.)

particular, Sirona established that it has suffered an irreparable injury, that remedies available at law are inadequate to compensate for that injunction, that the balance of hardships weigh in favor of Sirona, and the public interest would not be disserved by a permanent injunction. *See eBay Inc. v. MercExchange, L.L.C.* 547 U.S. 388, 391 (2006) (citing the four-factor test for a permanent injunction).

Accordingly, Sirona's requests for declaratory judgment and permanent injunction in Counts XI, XV, and XVI, respectively, of its Amended Complaint are hereby GRANTED as follows:

1. The Court finds and declares that Sirona is the rightful owner of the 3DSummit.com and GetYour3DOn.com domains. Further, Defendant John Smithson has no right to own, control, or access the 3DSummit.com and GetYour3DOn.com domain accounts.

2. Defendant John Smithson is ordered to take any and all steps necessary to immediately transfer any ownership he may have in the 3DSummit.com and GetYour3DOn.com domain names to Sirona.

3. Defendant John Smithson is hereby immediately and permanently enjoined from further controlling, accessing, or altering the 3DSummit.com and GetYour3DOn.com websites or domains.

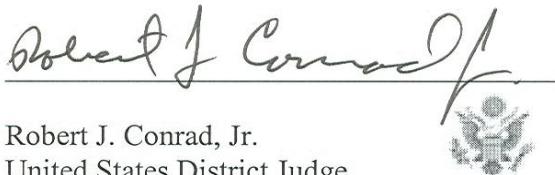
4. Defendant John Smithson is further immediately and permanently enjoined from publicly disclosing Sirona's confidential and proprietary information, including but not limited to disclosure of such information by way of a publicly-filed pleading that includes allegations pertaining to Sirona. Such confidential information that is prohibited from public disclosure includes, but is not limited to, Sirona's confidential marketing and sales information; Sirona's accounting and financial information; information regarding Sirona's business processes;

confidential information regarding Sirona's products; and information regarding the inventory levels of Sirona's exclusive distributor, Patterson Dental Supply, Inc. This Order shall not prevent Defendant from filing such information under seal and/or seeking relief from non-disclosure in conjunction with court proceedings.

5. The Court retains jurisdiction to enforce the terms of this Order.

6. The Court having determined that Sirona is entitled to a permanent injunction as a matter of law, the Court finds that the \$100,000 bond previously filed by Sirona on February 15, 2015 (Doc. No. 19) in conjunction with the Court's granting of Sirona's Motion for Preliminary Injunction (Doc. No. 17) is no longer necessary and may be released.

Signed: June 28, 2018



Robert J. Conrad, Jr.
United States District Judge